

## WASHINGTON STATE GAMBLING COMMISSION

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### MINUTES COMMISSION MEETING THURSDAY, OCTOBER 13, 1994

**Acting Chair Mosbarger** called the meeting to order at 1:35 p.m. at the Best Western Icicle Inn, Leavenworth, Washington (Chairman Tull was unable to attend the regular meeting but was present for executive session).

**MEMBERS PRESENT:** **WANDA MOSBARGER**, Vice Chair; **PATRICK GRAHAM**, and **EDWARD HEAVEY**; and Ex Officio Members **SEN. MARGARITA PRENTICE** and **REP. KAREN SCHMIDT**.

**OTHERS PRESENT:** **FRANK L. MILLER**, Director; **BEN BISHOP**, Deputy Director; **SHARON TOLTON**, Assistant Director, Special Operations; **CALLY CASS-HEALY**, Assistant Director, Licensing Operations; **SHERRI WINSLOW**, Assistant Director, Field Operations; **JONATHAN McCOY**, Assistant Attorney General; **CARRIE SUTHERLAND**, Special Assistant, Public Affairs; and **SUSAN GREEN**, Executive Assistant.

### STAFF REPORTS

#### COMMERCIAL OPERATOR STATISTICS

**Ben Bishop** said that at the last meeting, the Commissioners requested information on how the growth of gambling is going in the state, and how much of an impact Indian gaming has had on state licensed gambling operations. He distributed charts showing that punchboard/pull tabs gross receipts growth has declined, although there was still growth on a statewide basis -- up from \$502 million to \$513 million, or 2.1 percent growth. Licensees have said there's growth only because there are more licensees, a number that Mr. Bishop said has increased from 2,369 to 2,427, which is about a 2.4 percent growth. Taking those two statistics together, gross receipts for punchboard/pull tab operators did decline slightly on a statewide basis. Last year, the average was \$212,700 gross; for the current period the average is \$211,400 gross.

**Mr. Bishop** said that for cardrooms, the gross receipts had a 2.4 percent increase up to \$17 million. The number of cardroom licensees declined from 114 to 109, which was a 4.4 percent decrease. The statewide gross for cardrooms went up about \$400,000; the number of active class E cardroom licensees decreased by five, and the average gross receipts per licensee increased 7.2 percent from \$145,800 to \$156,300. Looking at these same numbers on a regional basis, the punchboard/pull tab and cardroom licensees in the Northwest region (Island, Skagit, King, Snohomish, and Whatcom counties) where all the Class III operations are now, the number of licensees for punchboard/pull tabs increased by 15, and the number of cardrooms remained the same at 47. The average gross per punchboard/pull licensee did show a decline, which would be expected. Cardroom revenue increased on the average, which is baffling because of the major tribal cardrooms that have opened. **Commissioner Graham** said the punchboard/pull tab decline is more associated to the Canadian dollar than to Class III gaming; **Mr. Bishop** said the Whatcom County activities were down considerably and the Canadian dollar was the most significant reason for that.

**Mr. Bishop** said that, in the Southwest region, the number of licensees for both punchboard/pull tab and cardrooms is fairly stable. The average gross per licensee in the Southwest region went up slightly (less than \$1,000), and there was an increase in cardrooms. There are no tribal casinos in this area.

**Mr. Bishop** said that in the Eastern region, which is everything east of the Cascade summit, there are three tribal casino operations. The number of licensees remain stable and there was an increase per punchboard/pull tab licensee. In total, the average per licensee is about \$170,000 in the Eastern Region, while the statewide average is \$211,000. Cardrooms gross income increased. He said he also has statistics for Snohomish and King County for those who are interested.

**Mr. Bishop** said Snohomish County punchboard/pull tabs average number of licensees increased by two or three, but the gross income had a \$500 per licensee decrease, which is what the licensees have been saying. The number of active cardrooms went down by two (from seven to five), which continues the decline from 1991. In 1990, Washington Blackjack came in and all cardrooms experienced an increase. The income for cardrooms increased, which could be explained by the closure of the two cardrooms.

In Whatcom County, **Mr. Bishop** said punchboard/pull-tab licensees increased by three, and the gross receipts decreased substantially from \$650,000 to \$580,000; the average licensee in Whatcom County grossed \$580,000 and the statewide average is only \$211,000. They are being impacted. In 1993-94, there were three cardrooms in the area and gross decreased from \$34,000 to \$33,000. The last table he presented was to answer Commissioner Graham's question of how many licensees are going down in gross compared to how many are upgrading. In the last two years, the Commission has made more refunds for those that are down-grading. This may not be because they are making less money, but it may be they are more knowledgeable that if they operate below their level they can apply for a refund. Refunds are not automatic.

**Director Miller** said the agency has compiled much more now in the way of statistics, and this year and next year there will be a better picture of performance by area. The Whatcom County situation is unique because of both Class III gaming and the exchange rate.

## **TRIBAL GAMING COMPACTS**

**Ms. Tolton** gave an update on the implementation of tribal-state gaming compacts. She said there are three casinos currently operating eighty hours per week -- Tulalip, Nooksack and Swinomish. One has 23 tables and two have 31 tables. Wagering limits are currently \$10, \$25, and \$100. The Special Operations Division's Tribal Gaming Unit is currently monitoring the terms of the compacts with a supervisor and four special agents in the field. Three more facilities are expected by spring of 1995; Jamestown in February, and Chehalis and Muckleshoot in May 1995. The Upper Skagit Tribe is probably going to be the fourth facility to open, about six months after they break ground. Harrah's Resort Hotels is the management company for the Upper Skagit and has submitted an application that the licensing staff is working on currently. With six total facilities soon to be up and running, the agency will be looking at the additional scope of 140 operating hours per week, 31 tables to start and then bumping to 50 tables at a later time with \$250 and \$500 wagering limits.

**Ms. Tolton** said the licensing staff has currently completed 1,349 certification applications and is starting to receive individual applications for the tribes that are expected to implement the terms of their compacts in 1995. The upcoming facilities are opening in Sequim, near Oakville (south of Olympia), and in Muckleshoot (King County).

## **ILLEGAL GAMBLING INFORMATIONAL BROCHURE**

**Ms. Tolton** said the Commission will be printing new brochures that outline illegal gambling activities with an

explanation of what makes the activities illegal (brochure sample was distributed). This was the result of a meeting the staff had with local community leaders in the Chinatown area of Seattle following some raids on illegal gambling activities. One of the questions was if there is anything to give the average citizen who is not a licensee and may not be familiar with general RCW and WAC requirements that would be easy to read and understand. The brochures will be distributed to that area and will also be available to other groups interested in understanding what illegal activities are in the state.

## **LICENSE APPROVALS**

### **NEW LICENSES, CHANGES, WITHDRAWALS, and TRIBAL CERTIFICATIONS**

**Commissioner Graham** moved for approval of the list as printed; **Commissioner Heavey** seconded the motion; motion carried with three aye votes.

## **REVIEW OF FRIDAY'S AGENDA**

**Ms. Sutherland** said there are 11 rules up for final action on tomorrow's agenda. There will be an addendum to the rule change regarding the permanent deletion of prize references. There are two rules pertaining to limited social card games without a license; six rules pertaining to amendments to the fee schedule; one rule pertaining to problem gambling informational signs, and one rule pertaining to commercial amusement game standards. There are 17 rules up for discussion with final action in November; four have to do with punchboard/pull-tab retention requirements and 12 are just housekeeping changes. One rule pertains to drawings conducted at bingo games. There is also a petition on the agenda by the Washington State Association of County Treasurers, which includes three rules; two are changes and one is a new section. **Director Miller** said that, regarding permanent deletion of prize references, there has been a compromise to do away with any language regarding the sticker and just say permanently delete. If the prize reference is permanently deleted, it's fine; if the sticker peels off, it won't work. Licensees appreciate this approach of putting the burden on the operators.

## **DEFAULT HEARING**

**Laura A. Jensen, d/b/a LJ's Tavern; CR 94-0831, Revocation of Punchboard/Pull Tab License.**

**Acting Chair Mosbarger** said staff served Ms. Jensen with notice of hearing and she did not respond. Her license is up for revocation due to failure to report. She is now out of business. **Commissioner Heavey** moved for revocation of the license; **Commissioner Graham** seconded the motion; motion carried with three aye votes. (Representative Prentice arrived at this time.)

## **QUALIFICATION REVIEWS**

### **BIG SISTERS OF KING COUNTY, Seattle**

**Ms. Cass-Healy** said this is a charitable organization with a Class "J" bingo license, a Class "M" punchboard/pull tab license, and a Class "A" amusement game license. Their statement of purpose is "to encourage girls in the community to grow into healthy, self confident, responsible women by supporting one-to-one relationships between a girl and a woman volunteer who can nurture the girl's self esteem and help her develop awareness of choices in her life." The organization served 433 clients with 20 employees and 473 volunteers. Net gambling revenues totaled \$359,687, and they spent \$792,480 in support of their stated purpose. They now have branch offices located in South King County and the Eastside, and also plan to open

a Burien branch in December 1994. Staff recommends qualification as a charitable organization.

#### **FERNDALE BAND BOOSTERS, Ferndale**

**Ms. Cass-Healy** said this is an educational organization with a Class "H" bingo license, a Class "J" license for punchboards and pull tabs, and a Class "B" license for raffles. Their statement of purpose is "to foster interest in and provide financial support to the Ferndale High School Band." Their primary activity is to provide funding for travel, staffing, uniforms, and instrument expenses of the Ferndale High School Band. They also provide other charitable and civic services indirectly through cash contributions. They served 150 band members, 100 parents and approximately 10,000 members of the general public with 22 employees and 100 volunteers; contributions totaled \$17,985. Net gambling revenues totaled \$147,138, and they spent \$224,904 in support of their stated purpose. Staff recommends qualification as an educational organization.

#### **MARAUDERS DRUM AND BUGLE CORPS, Longview**

**Ms. Cass-Healy** said this is an educational organization with a Class "I" bingo license, a Class "K" license for punchboards/pull tabs and Class "B" license for raffles. Their statement of purpose is "to teach and promote musical artistic skills, and understanding, leadership, discipline, moral ethics and good citizenship, as well as participation in parades, community activities and competitions." Services provided include a Marauders Winter Guard for the older youths, and the Marauders Prep Guard for children ages 8-12. They served 158 clients last year, and provided services with 40 employees and 20 volunteers. Contributions totaled \$8,500 in scholarships. Net gambling revenues totaled \$668,043 for the year, and they spent \$636,423 in support of their stated purpose. Staff recommends qualification as an educational organization.

#### **PUGET SOUND RUGBY, Seattle**

**Ms. Cass-Healy** said this is an educational organization with a Class "I" bingo license, a Class "G" license in punchboards/pull tabs, and Class "A" amusement game license. Their statement of purpose is "to educate the public about the sport of rugby, to foster regional and international amateur competition." Their goal is to develop and support minor sports in the Puget Sound area, including rugby, field hockey, lacrosse, soccer and other co-educational activities. They served 300 with 30 volunteers, and they contributed \$1,200 to the old Puget Sound Rugby Club and the Puget Sound Breakers, a boys club and a girls club. Staff recommends temporary qualification as an educational organization, as they have been unable to pursue significant progress toward their stated purpose due to a lack of funds. They have not met the prize payout net income requirements from the gambling operation. Staff had a meeting with this group and discussed the issues and the ramifications of the new net income payout rules on the organization over the next year or two.

**Commissioner Graham** asked about the background history on this group; **Ms. Cass-Healy** said they are almost a brand new organization, and their board mostly coordinates activities with regional clubs. They've been operating a little over a year and have not made a profit and do not expect to make a profit in the near future. They seem to be deducting expenses that they don't need to be deducting, such as taking depreciation and rent, but they are accruing rent because they're not paying it. They probably aren't as bad as the numbers look, but they are still losing money. **Commissioner Graham** asked what the nearest competition is to them; **Ms. Cass-Healy** said probably Big Sisters in Burien, and they did not take over someone else's bingo operation but started from scratch. **Commissioner Graham** said they grossed over \$1.5 million, so they have the income and just need to cut back expenses. **Commissioner Mosbarger** asked if staff is recommending a specific time frame for the temporary license; **Ms. Cass-Healy** said that to fall under the rules, this group would have to come into compliance by March 1995 or they would automatically be downgraded. If they could

not make the percentages after that point, then additional steps would be taken. **Director Miller** said they must make money for their purpose and at the present they are only making money for their employees. In the past, organizations with similar problems have been removed from the opportunity to utilize gaming. Under the new rules, they will be automatically downgraded if they don't improve. He said another problem with these types of games is that they pull customers away from other games that are profitable.

**Sen. Prentice** asked if staff sees a correlation with the fact that this organization does not have established, written guidelines for a number of routine administrative types of things. She asked if that is a reflection of a new organization or of a group that doesn't know how to get it together; **Mr. Bishop** said probably disorganization; **Sen. Prentice** asked if this is curable; **Director Miller** said from a bingo standpoint, that's unknown; from an organizational standpoint, maybe. **Ms. Cass-Healy** said they are not presently pursuing other funding and are trying to get the bingo game going. **Mr. Bishop** said the manager should be fairly knowledgeable about gambling, but there are some real problems. They are going up against some successful, well managed games, which would be tough for any group to compete with. This group has been advised they probably don't have much of a chance. This is their first time submitting and their first review. **Director Miller** said staff is watching this game very closely. **Mr. Bishop** said they will be downgraded up to two license classes, down to the level they are performing at, if they are not meeting the requirements by March 1995. Right now they are making no money. **Commissioner Graham** asked if any group could start up a new bingo operation and compete; **Director Miller** said it would be difficult for any group. State law says the Commission cannot limit the number of games allowed, and every qualified organization is entitled to try.

**Commissioner Graham** asked what they did with the \$430,000 in loans; **Mr. Bishop** said that's probably the minimum to get the game started, for leasehold improvements, operating capital, and \$130,000 in losses. The organization is probably \$400,000 worse off than they were last year before they started bingo, because there's no guarantee of getting leasehold improvements back if they can't continue. **Commissioner Mosbarger** asked if the Commission should put a shorter term on the temporary qualification; **Mr. Bishop** said he recommends going until January and then asking them to give the Commission an idea of what they're doing and the steps they're taking to turn this game around. **Director Miller** said he feels confident with the six months, and in the event there is a problem, the agency can take action at any time.

**Commissioner Graham** moved for qualification of the four groups as presented and in accordance with the recommendations of staff; **Commissioner Heavey** seconded the motion; motion carried.

#### **QUALIFICATION REVIEW FOLLOW-UP**

##### **SPOKANE VALLEY FOUNDATION, Spokane**

**Director Miller** said the Commission asked for a review on this organization, which was distributed to the commissioners last month, and staff is prepared to present the information at this time; **Acting Chair Mosbarger** said this will be held over until Chairman Tull can be present. **Director Miller** requested an executive session to update the commissioners on litigation. Last month there was an issue discussed that will be brought up again tomorrow; the licensing of management companies that work with tribes. He said the commissioners requested a report about how other jurisdictions handle certification of these groups. Chairman Tull had requested this information.

**Acting Chair Mosbarger** called for a ten-minute recess to be followed by an executive session. She adjourned the public session until Friday at 10:00 a.m. (Chairman Tull arrived at the beginning of executive session.)

## WASHINGTON STATE GAMBLING COMMISSION

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### MINUTES COMMISSION MEETING FRIDAY, OCTOBER 14, 1994

**Chairman Tull** called the meeting to order at 10:00 a.m. at the Best Western Icicle Inn, Leavenworth, Washington.

**MEMBERS PRESENT:** ROBERT M. TULL, Chairman; WANDA MOSBARGER, Vice Chair; PATRICK GRAHAM, and EDWARD HEAVEY; and Ex Officio Members SEN. MARGARITA PRENTICE and REP. KAREN SCHMIDT.

**OTHERS PRESENT:** FRANK L. MILLER, Director; BEN BISHOP, Deputy Director; SHARON TOLTON, Assistant Director, Special Operations; CALLY CASS-HEALY, Assistant Director, Licensing Operations; SHERRI WINSLOW, Assistant Director, Field Operations; JONATHAN McCOY, Assistant Attorney General; CARRIE SUTHERLAND, Special Assistant, Public Affairs; and SUSAN GREEN, Executive Assistant.

#### APPROVAL OF THE MINUTES FROM THE SEPTEMBER 8-9, 1994, MEETING

**Commissioner Heavey** moved for acceptance of the minutes from the September 8-9, 1994, Commission meeting in Bellingham, Washington, as set forth and printed in the agenda packet; **Commissioner Mosbarger** seconded the motion with the correction; motion carried.

#### ADOPT OR AMEND RULES

##### **PUNCHBOARDS AND PULL TABS**

##### **Permanent Deletion of Prize References**

##### **Amendatory Section, WAC 230-30-070 -- Control of Prizes**

**Ms. Sutherland** said this is proposed by staff for final action, with an effective date of January 1, 1995. The amendment clarifies the requirement for punchboard/pull tab operators to permanently delete references to prizes from the flare upon determination of a winner and prior to award of the prize. There is one change, deletion of the sentence, "the reference to the prize shall be deleted by using indelible ink or a non-removable sticker." Staff felt it was most important to delete the prizes permanently and conspicuously deleted, rather than specifying in what manner. The addendum with this change was handed out yesterday. Staff recommends final adoption of the rule change. (Rep. Karen Schmidt arrived at this time.)

**Perry Panagiotu**, president of Tab King Distributing, asked if his product meets the standards under this new wording of this rule change. He said the rule appears to make better sense. **Chairman Tull** said he cannot say for sure if this product meets the standards, because liability and the meaning of the word "permanence" will not be determined today. **Director Miller** said the onus is on the operator to follow the Commission's

rules. Tampering with the stickers to make them easier to peel off is a serious offense. If staff goes into a tavern and finds that these stickers peel off easily, then they will be told not to use them anymore. **Mr. Panagiotu** said the stickers can't be considered permanent if people are trying to find ways to beat the system. He said he wants to make sure that if his product is used under the intention that it is manufactured and designed for, then it is a permanent adhesive.

**Commissioner Heavey** moved for final adoption; **Commissioner Graham** seconded the motion; motion carried with four aye votes.

## **LICENSING**

### **New Section WAC 230-46-100 -- Bona Fide Charitable/Nonprofit Organizations -- Limited Social Card Games Without a License -- Conditions**

#### **Repealer WAC 230-04-199 -- Class R Recreational Card Games Conducted By A Bona Fide Charitable or Bona Fide Nonprofit Organization**

**Ms. Sutherland** said these rules are up for final action, with an effective date of January 1, 1995. She said staff proposes these rules to authorize charitable or non-profit organizations to conduct limited card games on their premises without obtaining a license. The present \$25 license fee is insufficient to cover expenses for issuing the licenses. Staff recommends final adoption of the rule change. She said there were comments made by Lynn Melby at the last Commission meeting regarding whether or not this rule would affect clubs that have class H liquor licenses and their ability to play certain games, including poker; this rule does not affect that. Mr. Melby has been contacted and a memo was provided to the commissioners.

**Commissioner Graham** moved for adoption; **Commissioner Mosbarger** seconded the motion, motion carried with four ayes votes.

## **AMENDMENTS TO FEE SCHEDULE**

### **Amendatory Section WAC 230-04-190 -- Issuance of License**

**Ms. Sutherland** said this is up for final action, with an effective date of January 1, 1995. The rule clarifies the two-part payment plan for license fees. Staff recommends final adoption of the rule change. **Commissioner Heavey** moved for final adoption; **Commissioner Mosbarger** seconded the motion; motion carried.

### **New Section WAC 230-04-202 -- Fees -- Bonafide Charitable/Nonprofit Organizations**

### **New Section WAC 230-04-203 -- Fees -- Commercial Stimulant and Other Business Organizations**

### **New Section WAC 230-04-204 -- Individuals**

### **Amendatory Section WAC 230-08-017 -- Control of Gambling Equipment -- Use of Identification and Inspection Services Stamps.**

### **Repealer WAC 230-04-201 -- Fees**

**Ms. Sutherland** said these five rules are all related to changes in the fee schedule. These changes were proposed by staff and are up for final action today, with an effective date of January 1, 1995. The fees set forth in this WAC section would be consolidated into the applicable WAC section according to whether the fee applies to charitable/nonprofit organizations, businesses, or individuals. Consolidation of fees by type of license will assist staff and licensees in determining the proper fee and reducing the administrative costs of future fee changes by allowing fee tables for specific types of licenses to be modified independent of other tables. Staff recommends final adoption of the rules. WAC 230-04-202, at the bottom of the page, the license

fee for class "D" fund raising event equipment licenses was omitted; it should read "\$210." Also, on page two, class "E" fund raising event equipment distributor licenses should read "\$530." She said the amendment to WAC 230-08-017 deals with raising the identification and inspection services stamps fee to fund the 1996-97 budget request. Staff recommends final adoption of this rule also. **Chairman Tull** said that anytime fees are being increased, there is an increase in the burden on the different operations, businesses and organizations. He said the commissioners are confident in the job done by staff and he is confident that increases are necessary from time to time. He said this renews the commitment that the Commission had better deliver good service in accordance with the rules. The licensees know that they can express their views to the Commission, either formally or informally and they'll be listened to, and often times they are agreed with.

**Commissioner Heavey** moved for final adoption of the sections on the fee increases along with the changes outlined by Ms. Sutherland; **Commissioner Mosbarger** seconded the motion; motion carried with four aye votes. **Sen. Prentice** recognized that although nobody likes an increase in fees, she acknowledged that the amount of taxes that the operators put back into the local coffers is appreciated by the members of the Legislature.

## **PROBLEM GAMBLING INFORMATIONAL SIGN**

### **New Section WAC 230-12-090**

#### **Problem Gambling Informational Sign Must Be Posted**

**Ms. Sutherland** said this is up for final action, and will go into effect January 1, 1995. It is the result of a legislative requirement per RCW 9.46.071 in recognition of problem gambling. It provides for the posting of the 1-800 number in licensed facilities. There was a presentation on problem gambling at the last meeting, and licensees have commented that they would like to be able to design their own signs, and changes to the rule have been made to reflect their comments. Staff recommends final adoption. **Sen. Prentice** asked if the size of the sign is regulated; **Ms. Tolton** said the rule provides that the licensees will be provided with signs issued by the Gambling Commission. The exception allowed is for licensees to create their own signs if they wish, but if they do, they must be approved so they won't be the size of a postage stamps and so they clearly identify the 1-800 number.

**Commissioner Heavey** asked what the word "adequately" means and asked if another word, such as "properly" or "legally" would be better. He said "adequately" is not the right word. **Mr. Kaufman** (from the audience) said that in the previous paragraph, it is defined as entrances and exits, so "adequately" should be okay. **Commissioner Heavey** said "adequately" is a very vague term. **Director Miller** suggested deleting the word; **Commissioner Heavey** suggested changing the word to "visibly;" **Chairman Tull** suggested "prominently display" in place of "adequately," and that way agents could use their own judgment and tell the operators when the signs are not prominently displayed. **Director Miller** suggested "post in plain view," and said using the word "adequately" could create a debate. He said staff does not expect to have a problem with compliance on this rule. **Chairman Tull** suggested "shall prominently display the problem gambling informational signs at each entrance" in the first lines of the second and third paragraphs. This will give the enforcement people the ability to say it can't be placed behind a coat rack.

**Don Kaufman** of Big Brothers and Big Sisters of Spokane, said he has concerns about the word "display" and would rather use the word "post" instead of "display," because "display" could be read as meaning it should be set up on an easel. **Chairman Tull** said the word can be changed back to "post" so that the change reads "prominently post." **Commissioner Heavey** said he is more concerned about an agent getting into a beef with a licensee about not adequately posting the signs.

**Ron Sellar**, Washington State Licensed Beverage Association, said he wants to make sure none of the signs they are required to post take precedence over the others; "Must Be 21 to Enter," "Pregnant Women Cannot Drink Alcohol," "Firearms Not Allowed," "Problem Gamblers Don't Come In." He said he's running out of space. **Director Miller** said this is not just a WAC rule change; this is a requirement under state law, as are



the other signs.

**Commissioner Mosbarger** moved for final adoption with the wording "prominently post"; **Commissioner Graham** seconded the motion; motion carried with four aye votes.

## **COMMERCIAL AMUSEMENT GAME STANDARDS**

### **Amendatory Section WAC 230-20-700**

#### **Coin or Token Activated Amusement Games--Standards**

**Ms. Sutherland** said this is presented by staff and is up for final action; with an effective date of January 1, 1995. The amendment allows coin or token-activated commercial amusement games to have an acceptor to include paper money in addition to a coin acceptor capable of taking money for one play. All games utilizing paper money acceptors must either return change or clearly disclose that the device does not make change. She said if the device does not make change, there must be a change machine in the immediate vicinity. There were some changes made to the language as the result of discussions at last month's Commission meeting. Staff recommends final adoption of this rule change with amendments. **Director Miller** said he thought Commissioner Heavey had said there should be a change machine only if there was no one available to make change. He said the wording as it is now requires all operators to have a change machine even if there is a person in a booth making change.

**Commissioner Heavey** requested comments from the licensees affected by this rule; nobody came forward. **Director Miller** said the affected operators are not all present. **Mr. Bishop** suggested striking, in the last sentence, "a change-making bill acceptor," and insert "or the ability to obtain change in the immediate vicinity."

**Chairman Tull** read the amended language in the third sentence; "operators using amusement games that do not return change must have a change making bill acceptor, or the ability to obtain change, in the immediate vicinity of such games." **Director Miller** said none of the amusement games, such as cranes, make change.

**Commissioner Heavey** moved to accept the amended language and adopt the rule change; **Commissioner Mosbarger** seconded the motion; motion carried with four aye votes.

## **PUNCHBOARDS/PULL TABS**

### **Amendatory Section WAC 230-30-072**

#### **Punchboard and pull tab inventory and retention requirements**

**Ms. Sutherland** said this rule was presented by staff in conjunction with the commercial operators study group for discussion with final action in November. She said there is an addendum to this rule that was handed out. RCW 9.46.110 requires that a public record of winners be kept for 90 days for winning tickets that are over \$20, which would conflict with the two-month retention period requirement for commercial stimulant licensees.

The addendum adds a provision that the winning punches or tickets must be kept for 90 days. The rule requires charitable and non-profit organizations to retain the series for four months, and commercial licensees to retain the series for two months, following the last day of the month in which the series was removed from play, with the exception that winning punches or tickets over \$20 must be kept for 90 days for public record. The repeal of the test will be covered in another upcoming rule change.

### **Amendatory Section WAC 230-30-075**

#### **Punchboard and pull tab retention restrictions-- Minimum percentage of prizes available ((for certain gambling activities)).**

**Ms. Sutherland** said this is presented by staff for discussion with final action in November. The rule clarifies

the punchboard/pull tab prize restrictions by adding sub-section four, which will not allow a punchboard or pull-tab series to be sold in the state if the series offers prizes for purchasing the last ticket or punch that exceed \$100 or the highest prize offered, whichever is less. Staff recommend further discussion.

**Mr. Panagiotu** asked if this applies to merchandise prizes, and if that would be acceptable in place of a cash award as the last sale prize. **Chairman Tull** said he believes that only a small number of operators offer merchandise prizes on last sale games. **Mr. Panagiotu** said that the cash prizes are almost never awarded, so the intent is that the majority of the percent of the payout of that game is levied toward the end and is never being received by the public. With merchandise, there is more play-out of the actual games when a major award is offered. He said people have the tendency not to pull the merchandise prize boards as early as cash award games are pulled. **Director Miller** said he's not aware of last sale merchandise prizes given instead of cash. **Mr. Panagiotu** said it is used quite often. **Director Miller** said the intent of this rule is to address cash prizes; if operators are having large-scale prizes as the last sale prize, that will be knocked down to the \$100-level also, because that is even more of a problem than cash, and it effectively reduces the payout available beyond what's required by law. He said he would research this and come back next month with possible changes. **Mr. Panagiotu** asked if, in the event the major prize of a particular game had a \$500 value, would the last sale of equal value be allowed. **Director Miller** said that is being done away with; the last sale would be limited to \$100. If the top prize is \$500, you aren't required to give that prize if you pull the game, but the last sale cannot be the \$500 prize, which would never be given away.

#### **WAC 230-08-010, Monthly records**

#### **Repealer WAC 230-30-998**

#### **Punchboard and Pull Tab Retention Requirements--Test**

**Ms. Sutherland** said this was proposed by staff and requires commercial punchboard and pull-tab operators to complete monthly records within 15 days, rather than 30 days, following the end of the month, and make these records available to audit or inspection the next day. This is a companion rule to the pull-tab retention rule, which allows commercial operators to retain the pull tab series for two months, except for the 90 days required for winning tabs and punches. She said staff also requests repealing WAC 230-30-998 (the test), which will be completed in December 1994. This is presented by staff for discussion with final action in November.

**Director Miller** explained that this rule came about because licensees were required to keep all the tickets not played and all the winning tickets for six months. Given the volume in the state -- 1.2 million games -- storage of the tabs became quite a problem for many licensees. It was reduced to four months later on, as a result of the agency's progress in its ability to regulate, the test was conducted last year to see if the retention period could be reduced to two months to assist the operators with their storage problems while still maintaining the ability to regulate. The year-long test was successful; however, the monthly records must be completed 15 days earlier, which the operators agreed to.

**Don Kaufman**, Big Brothers and Big Sisters of Spokane, said the new rule appears to apply to both non-profits and commercials, and is for anyone who has a license for punchboards and pull-tabs. He said the new section is a mistake, because there needs to be clarification on the second time it says "each record" so it reads that these records need to be done by everyone, not just businesses. It should say, "each record of non-profits and commercial stimulant licensees shall include the following..." **Chairman Tull** said it could also be made a separate paragraph. He said Mr. Kaufman's concern will be addressed and a revision pursued. Additional comments will be taken at the November meeting.

#### **LICENSING, BINGO, and PUNCHBOARDS/PULL TABS**

#### **HOUSEKEEPING CHANGES -- FEE SCHEDULE REFERENCES**

**Amendatory Section WAC 230-04-020  
Certification Procedure--General Requirements--Mandatory Training Required**

**Amendatory Section WAC 230-04-125  
Distributor's Representative License May be Reissued When Changing Distributors**

**Amendatory Section WAC 230-04-145 -- Licensing of Managers of Bingo Games**

**Amendatory Section WAC 230-04-260 -- Effect of Exceeding License Class Income Limit**

**Amendatory Section WAC 230-04-290 -- Loss or Destruction of Licenses or Permits**

**Amendatory Section WAC 230-04-310 -- Change of Name**

**Amendatory Section WAC 230-04-320 -- Change of Location**

**Amendatory Section WAC 230-04-325 -- Cancellation, Change of Time, Date, or Location of Fund Raising Event**

**Amendatory Section WAC 230-04-340 -- Transfer of Licenses--Conditions**

**Amendatory Section WAC 230-04-350 -- Death or Incapacity of Licensee**

**Amendatory Section WAC 230-20-064 -- Maximum Receipts, Prizes, and Expenses for Bingo Games-- Net Income Required**

**Amendatory Section WAC 230-30-016 -- Replacement of Commission Identification Stamps on Pull Tab Dispensing Devices**

**Chairman Tull** said the items found in number six are all housekeeping changes with final action in November.

**WAC 230-20-242 -- Activities conducted as part of a bingo game -- Authorizations, -- Restrictions**

**Ms. Sutherland** said this was read into the record at the last Commission meeting and is up for final action in November. It is presented by staff in conjunction with the Washington Civic and Charitable Gaming Association and amends the rule to allow bingo operators to conduct drawings as long as the tickets from which the winners of these drawings are selected are not accumulated for more than 30 days. Staff recommends further discussion.

#### **PETITION**

**Amendatory Section WAC 230-04-190 -- Issuance of License**

**New Section WAC-230-04-XXX -- Notification of Local Taxing Authorities**

**Amendatory Section WAC 230-04-400 -- Denial, Suspension or Revocation of Licenses**

Presented by the Washington State Association of County Treasurers.

**Phil Sanders, Property Tax Supervisor, King County Finance Division**, said his division is responsible for the collection of gambling taxes in unincorporated King County. There are other treasurers from other counties who will also speak today. He received a letter from Karen Flynn, Kitsap County Auditor. Linda Nelson of his staff is also present, as well as the deputy prosecuting attorney from King County, Peggy Paul, who represents the King County Finance Division.

**Mr. Sanders** read the letter from Karen Flynn: "Dear Mr. Sanders, I regret that I am unable to attend the Washington State Gambling Commission meeting in Leavenworth to provide oral testimony regarding our strong support for the amendments proposed, which would assist local governments in the enforcement of local gambling tax requirements. In Kitsap County, we have identified specific instances in which we have been unable to identify certain entities which were licensed by the Gambling Commission and engaged in gambling activity in the county. When we attempted to obtain the names of those entities through the state, we were required to sign a document and pay a fee, although it was clear we were also a government agency. We have also had difficulty with collections from certain organizations which have taken extensive resources to pursue. We strongly believe that the logical remedy for failure to pay all gambling taxes is revocation of an organization's gambling license. We further believe that the best incentive for organizations to stay current with their taxes is a specter of loss of that license. If you have the opportunity to do so, I hope you will convey to the Gambling Commission our support for the proposed amendments. We believe those proposals will resolve to a great extent the difficulties we experience here in Kitsap County in enforcing our local gambling requirements. Sincerely, Karen Flynn, Kitsap County Auditor."

**Linda Nelson**, King County Finance Revenue Officer, said she drafted these amendments because of the difficulties in collecting gambling taxes, cases which are the exception, not the rule. There are occasional instances where an operator starts gambling activities and forgets to tell the county finance office. They may go several quarters without paying and someone will anonymously call them or they will read something that indicates they are running gambling activities. When there are unpaid gambling taxes, they must get a referral over to the District Court for a misdemeanor charge. She'd like to be able to call the Gambling Commission to step in at that point and either revoke their license or suspend it to give them an incentive to pay their tax, rather than continuing to license them. She had a specific instance where a licensee gambled for three quarters and was granted a new punchboard/pull tab license while out of compliance with the County, and that licensee now owes the County \$12,000. She said this is only a once or twice yearly instance, and it is not her intent to have the Gambling Commission collecting taxes for them. She said it would be helpful to know who was licensed in their area and if the Gambling Commission could take action if they refuse to comply. The courts are effective but the process takes a long time; sometimes as long as a year. The Gambling Commission has indicated it cannot do anything until there is a guilty plea or a judgement, which could take up to 1-1/2 years. She's seen debts accumulate as high as \$60,000.

**Chairman Tull** said there will be an opportunity for those opposed to this petition to speak following those in favor.

**Doug Lasher**, Clark County Treasurer, provided the commissioners with written comments. He said he proposes a change to the WAC in order to resolve a mis-communication between the taxing authority and the licensees. Over a period of about four years, people have claimed that they weren't notified at the training session that they are required to touch base with the local taxing authority, and his proposed changes would add the requirement to the WAC 230-04-400 (5). In Clark County, for the last three or four years, there has been approximately \$31,000 in outstanding gambling taxes they've had to collect. He proposed a change to WAC 230-04-400 (5), where it says "denies the commissioner its authorized representative, including authorized local law enforcement agencies or taxing authority access to any place where a licensed activity is conducted..." He said the sheriff is really not the appropriate authority to deal with the gambling establishment to collect taxes. He complimented the Gambling Commission on its cooperation in working with his office on audits and said they have a very good relationship with Commission staff.

**Barbara Corey**, Whatcom County Treasurer, encouraged the commissioners to adopt these WAC rule changes. The County ordinance requires the licensee to contact them to pay the tax, but if they don't contact them, then they don't know they are required to pay a tax. It would help if the Gambling Commission could notify the county of new licensees, and then the county could send the licensees information about what rate they must pay and how to go about paying when it's due. She said Whatcom County has had problems with gambling associations not paying the taxes that are due, and one particular establishment owed nearly \$40,000 when the Liquor Board held up the license of this establishment for non-payment of gambling taxes. She said it is unfortunate that the Gambling Commission cannot do this now and that they should be able to.

The petition for rule changes would allow the county to have a hammer in enforcing the local tax and in collecting it.

**Mary Dodge**, Douglas County Treasurer and president of the Washington State Association of County Treasurers, said her office does not do the collecting of gambling taxes in her county, but there are 11 counties in the state that do collect gambling taxes. At a meeting last week, a presentation was made on this petition for rule changes and the affiliate unanimously supported the request that the Gambling Commission change the WACs to meet the needs of the treasurers.

**Jim Nunalee**, revenue officer for Snohomish County, read from a letter sent by a gambling licensee who said new licensees should be notified of their obligation to pay county taxes when they first apply for the pull-tab license because they might think otherwise about getting one. He said this licensee went six quarters without paying, and they have to go through the court system to remedy the situation. **Chairman Tull** asked if he thinks people are actually ignorant of their obligation to pay taxes; **Mr. Nunalee** said no, and that was also part of the letter.

**Don Kaufman**, Big Brothers and Sisters of Spokane, said he is in support of the intent of the petition because all licensees should pay their fair share. He asked if the intent of WAC 230-04-XXX is meant to require notification with initial licensing, because he does not want to have to go down every year and notify someone that he's still in business. He asked that the word "initial" be added, or put it in twice for clarification. **Chairman Tull** said the rule making process gives everyone a chance to consider the details of the rule and come back with specific suggestions. Revisions will not be entertained today, but as the review proceeds. He said Mr. Kaufman should make sure to follow-up with a letter to staff about this suggestion so it is not overlooked.

**Chairman Tull** said if the Commission votes to file the petition, it does not constitute the Commission's final judgement as to the proposal, but will provide for meaningful opportunity for everyone to learn about the rule and be responsive. He said that he and Rep. Schmidt discussed this topic in early September and have had correspondence from Rep. Sommers regarding having this item on the agenda.

**Director Miller** said he understands the problem with licensees who don't pay their gambling taxes, but by law the Gambling Commission must still go through a hearing process. There may have to be legislative resolutions to eventually create an exemption. He said staff supports the petition to be filed and said it's important to work with local taxing authorities. He said he has some problems with some of the language, but that can be reworked and staff will come forward with a package to present. Presently, the Commission requires a judgement to put the initial burden on the taxing authorities, and once that judgement is received, action can be taken. If there are disputes on the taxes, the hearing process has to be used. He said staff will work closely with the petitioners to arrive at a good solution. The Commission notifies law enforcement agencies in each county on each issuance of a license, but that information is obviously not getting to the taxing authorities.

**Commissioner Graham** said the Commissioners are presented a list of new licensees at every Commission meeting, and he asked if those lists can be sent to the 11 counties. **Director Miller** said that could possibly be done. **Ms. Tolton** said local law enforcement offices within these jurisdictions are notified of new licensees twice; once when the application comes in, because staff needs information with regard to the applicants' background checks, and again once the license is issued. She said it's possible to re-adjust the Gambling Commission's process to include notification to the revenue collectors, but staff assumed that the local law enforcement authority was passing that information on to the people who need it. **Chairman Tull** suggested that, beginning with next month's packet, Commission staff should begin sending the list of new licenses to the several treasurers in the state of Washington. **Director Miller** said yes, that will be done.

**Rep. Schmidt** said Rep. Sommers could not be here, but she wanted to say that if anything can be resolved instead of coming to the Legislature, that would be appropriate. It is not their intention to put the Gambling Commission into the collection business, and they understand the legal problems involved. She said they

hope this can be resolved without the Legislature having to face an RCW to resolve the problem next session.

If some part of this cannot be resolved, then something coming jointly from the Commission and the taxing authorities might be appropriate. The idea of sending out notification brought up the fact that the county treasurers are not always the tax collection agencies, so some research will have to be done to see which agencies will need to get the lists. She thanked the Commission for placing this item on the agenda. **Director Miller** asked that the counties notify the Commission staff as to who is the appropriate authority to receive the list so it can be sent out to the proper people.

**Commissioner Heavey** said he has no objection to the proposal being filed, and Rep. Sommers had called him first and he turned it over to Commission staff. He said he has two problems with the petition; one, where there's a bona fide dispute as to the amount of taxes owed and whether that's an automatic basis to proceed; and two, in the new section, the Gambling Commission is put on the same footing as a licensee. The Commission is not a licensee, does not have the same responsibilities as licensees, and does not have the same relationship with local government. The extent of the rule should be that the Commission notify the local taxing authorities and from there on it's their problem. If they need to know how they're operating, etc., then they can contact those people. He has no objection to people who don't pay their taxes not doing business, but he does have a problem when there's a bona fide dispute and he doesn't want the Commission to get caught in the middle of such disputes.

**Linda Nelson**, King County Finance, responded to the issue of bona fide value of taxes being collected. She said the taxes collected are based solely on what information the licensee provides to them, so there should not be a dispute. The operators report their gross income to the taxing authority, which bases the tax on the amount reported by the licensee. **Chairman Tull** said that Commissioner Heavey's concern is one that is shared by the Commission. It is important to not kill the taxpayer who is about to pay the money. He said there was a case in Kent where a licensee was behind on his taxes and the Commission worked very closely with the taxing authority. **Ms. Nelson** said that was the Sidetrack Tavern and she is familiar with him because he operated in King County for multiple quarters without reporting; **Chairman Tull** said that, had he been shut down, his ability to pay anything would have been reduced, so he was placed on a "behavior modification plan."

In similar instances, the Commission would always consider preserving the local governments' ability to eventually satisfy a judgement. **Ms. Nelson** agreed that is a valid concern, but they do need to pay.

**Director Miller** said there may be considerable impacts on staff if the Commission gets involved in these cases, and he asked how many cases a year there are in King County. **Ms. Nelson** said she's worked in gambling tax collection for eight-and-a-half to nine years, and she can think of five total cases; she has three current cases and two that are large. She said there's maybe one case a year that she can generally solve on her own, and it's a very small problem in the scheme of things. There are 135 licensees in King County. There was a consensus of audience members that it is a small number of licensees that are a problem. **Chairman Tull** said that when a local government has to put up \$60-70,000 per year to support a deputy sheriff, \$40,000 in missing taxes can make a big difference.

**Mr. McCoy** said one way of reducing the cost to the agency would be to adopt a rule that specifically puts this in the brief adjudicative proceeding process. **Director Miller** said that is the simplified process that began being required a few years ago by the Administrative Procedures Act when there are no disputes. **Mr. McCoy** said it's for record cases. **Director Miller** said licensees are already required to report to the Commission on a quarterly basis what taxes they have accrued or paid. **Chairman Tull** said that he and Rep. Schmidt discussed the possibility of finding a way to impress upon licensees the seriousness of their representations to the Commission about their tax status. If some licensee tells the Commission they have paid their taxes but really have not, that type of false report would be a matter of great seriousness.

**Ron Sellar**, WSLBA, said he understands this petition to include that all counties be notified of the licensees in their area that have gambling licenses. Of the 39 counties, more than two-thirds do not have a gambling tax. He wants to make sure the information is not sent to the counties that do not presently collect gambling taxes because it would be like waving a red flag. **Chairman Tull** said there have been instances like the one in Whatcom County, where they were considering a big jump in the gambling tax and he corresponded with the

County Council, who determined it was not appropriate to adjust the tax.

**Chairman Tull** said there will be some level of assistance forthcoming to the taxing authorities, but it will be shaped more in November and at the January Commission meeting. **Ms. Dodge** said she would be happy to work with the Commission staff and provide a list of who collects gambling taxes in the counties. She said she agreed with Commissioner Heavey that the Gambling Commission should not be in the business of collecting taxes for them.

**Commissioner Heavey** moved to file this petition for further discussion; **Commissioner Mosbarger** seconded the motion, motion carried with four aye votes. **Ms. Sutherland** said this petition was submitted using an out-dated version of WAC 230-04-400, and this was discussed with the petitioners, and the newer version of the WAC is noted in the agenda. **Commissioner Heavey** referred to Mr. Lasher's letter and asked which version he cited; **Ms. Sutherland** said it was the former version of the rule, which is not part of the motion. **Mr. Bishop** said in the rule section, it explains the authority of the agents as far as having access to records, which would make it a violation of the Commission's rules rather than a specifically stated violation. **Chairman Tull** said the reason the letter is not part of the motion is because what he's asking has the potential to be very difficult to accomplish. **Ms. Sutherland** said that section is addressed in the RCW 9.46.075 (5); everything except for their change is set forth in the actual law, so it has just been taken out of the rule. **Chairman Tull** said the proposed rule adds language that is not in the statute; **Ms. Sutherland** said the remaining language they set forth is in the statute, although it wasn't in the Commission's WAC rule 230-04-400. **Chairman Tull** said it is part of the record but not part of the petition at this particular time. It will be part of the continuing discussion on this topic.

**Chairman Tull** called for the vote; vote taken, motion carried.

## **UNFINISHED BUSINESS**

### **CASINO NIGHTS/Fund Raising Events**

**Commissioner Graham** said his proposal would go to the state Legislature this coming session to change fund raising events to a maximum of four instead of only two; increase the maximum income an organization can make in a year to \$30,000; authorize spouses or members to work at the events; authorize up to five paid workers and allows equipment suppliers to be compensated for providing advisory services or training. He said the commissioners were provided with a graph that illustrates the plunging decline of fund raising events in Washington state over the last few years. **Mr. Bishop** said he contacted Lynn Melby of the Federation of Clubs, who stated that his organization would be pleased to sponsor this legislation.

**Commissioner Graham** moved to approve this proposal and forward it to the Legislature; **Chairman Tull** seconded the motion. **Commissioner Heavey** said he has a slight concern about only having a phone conversation with Mr. Melby, and without any other action on his part and by not attending this meeting, it doesn't seem like there's a lot of enthusiasm. He said they need to be well aware that the Commission members are not the ones that are going to go and lobby the Legislature to pass this legislation; if the licensees want it, they need to work for it. **Chairman Tull** said it reflects the difficulty of fund raising events, and that they are difficult to manage. There isn't really a big group of sponsors to interact with the commissioners. He said he feels that Commissioner Graham's proposal would benefit the licensees. He said Commission staff may be asked by legislative committees and elected officials what they think of this legislation, and they can clearly express the support of the Commission, although it will not be the staff's main priority. **Commissioner Heavey** agreed that the proposal could help with a potentially good source of revenue for the licensees, but the commissioners cannot be expected to carry the ball on this proposal for them. **Commissioner Graham** said he has felt that he's been doing the groundwork for something the affected licensees should have been doing the groundwork for.

((Commissioner Mosbarger left at this time))

**Director Miller** said the Gambling Policy Task Force last year wanted to look at ways for charities to make money and maximize revenues going to charities. He said the assistant attorney general should look carefully at the language of this proposal to be sure it will not affect the negotiations process with Indian Tribes for Class III gaming compacts. **Chairman Tull** said that if the commissioners support this proposal, the motion should be understood to include an opportunity for Mr. McCoy and Mr. Miller to, in the next week or so, offer any suggestions to Commissioner Graham before proceeding with this proposed legislation.

**Chairman Tull** called for the vote on approval; motion carried with three aye votes; Commissioner Mosbarger was excused. **Chairman Tull** thanked Commissioner Graham for all his work on this package, and said it is a good tool for licensees to raise more money for charities.

## QUALIFICATION REVIEW FOLLOW-UP

### SPOKANE VALLEY FOUNDATION, Spokane

**Chairman Tull** said the commissioners had requested additional information on Spokane Valley Foundation.

**Ms. Cass-Healy** said that, in December 1990, administrative charges were issued to Spokane Valley Foundation as a result of a special review. The charges included failure to meet membership requirements and failure to report several related-party transactions. Additionally, the organization failed to provide accurate information concerning the number of people served by its program. In 1991, a memorandum of understanding and a stipulated settlement agreement were completed, and the organization served a 30-day suspension. An additional 60-day suspension was deferred, conditioned on their compliance with all terms of the agreement, which included reorganization of their board of directors, increased controls over cash disbursements and documentation of program services. In 1992, staff requested temporary certification of this organization pending an audit to determine compliance with the above-mentioned agreement. Then, in September, a letter was sent to this licensee as a result of the audit that notified the licensee of the Commission's position regarding the retirement compensation package and several other items. The compensation agreement was classified as a concern in the letter, and the filing of new suspension charges was suggested. This was not addressed in the original stipulated settlement because of the timing of when it was implemented. The agency received the organization's response addressing the concerns, and dialogue continued back and forth between the organization and the agency until the case was settled April 4, 1994. Unfortunately, there is no correspondence on the formal settlement of the agreement itself. There were some informal discussions that were not documented in which the organization feels that the issue of the compensation package was settled.

**Chairman Tull** asked if that retirement severance is treated by the organization as an employee-type expense; **Ms. Cass-Healy** said yes, they treat it as a wage expense, and they still have to watch their net income requirements, which they were in compliance with in June of 1994. **Commissioner Graham** said Spokane Valley Foundation today is a different organization and is operating different than at the time this compensation package came about. His question to the Board today would be to ask if they approve of what the Board did back in 1990 or 1991, when the person running the organization was being ousted because the state would not approve of continuing bingo if she was still there. He said the Board then took it upon themselves to reward her with \$1,000 per month for the rest of her life. There was no prior agreement; this was something that just came up and was given to her. She left the state and moved to Florida, where she resides now. He said he wonders what the Board today feels about putting up \$12,000 per year and if they're still willing to do that. He said the particular stipulation for them to go into bingo was approved by the director and a member of the attorney general's staff; it was never brought forward to the commissioners. His question is, do the commissioners have the right to step in and overrule what the assistant attorney general and Gambling



Commission director did at that time? He said the organization could well use that \$12,000 a year for their purposes. **Chairman Tull** asked if the assistant attorney general involved (Jim Brusselback) would recall an awareness that they had this severance package arranged for the organization's departing president.

**Director Miller** said when the follow-up audit was done back in 1992, staff found this severance package, became concerned, and called the former assistant attorney general, who said it was known by the prior director and him that this was part of the agreement. The settlement agreement drops all charges that may have been brought regarding prize payout and net income, and the argument now is that the wages are tied directly to net income. Since this was the agreement and they have made great improvements in the operation of the game and are in compliance, he had directed Carrie Sutherland to settle the matter and put the organization on notice that staff would continue to watch the current salaries and that there must be continued improvement.

**Commissioner Heavey** asked if the Commission is considering not reissuing the organization's license; **Chairman Tull** said this is to review the license status and if the Commission determines that a change in their status is appropriate, then a further procedure would come into play. The license would not just be taken from them at this stage. **Director Miller** said the issue is more than just this organization, but also raises the question of the ability of a non-profit organization to give a lifetime amount of money, like a pension, which has not been addressed before. There is nothing to prohibit retirement packages, and those are not discouraged, but this particular case was questionable. **Chairman Tull** said the question is, did an objective, uninterested board of directors make the decision to commit the resources of the charity indefinitely at this level, or was it the former board? If it was the former board, then the existing board should be notified that they really ought not to continue this. **Director Miller** said the board is the same today. **Mr. Bishop** said it is essentially the same board, and the minutes from that meeting are part of the commissioners packet. At the time the vote was taken, Ms. Strader was still on the board, as well as Norm Major, her brother; and the vote says, "motion was made for Dona's retirement program, second, the motion is carried and all were in favor," which indicates she voted for her own pension and so did her brother.

**Commissioner Heavey** asked if there is something in their bylaws that prevents her from voting for herself, and said the Commission has no authority to interfere with a contract between an agency and one of its employees after the fact. He said there may be a problem with interference into a contractual agreement and there could be some liability for severing that agreement. **Chairman Tull** said the other concern is that if other boards may not be independent and free from influence, their licenses would be revoked. The Commission will not direct anyone to pay someone more or less, but if they do not satisfy state law, they cannot use gambling for their organization.

**Director Miller** said he was hesitant to overturn a decision made by a previous director and assistant attorney general, so the settlement was offered. **Commissioner Heavey** said the Commission may not want to get into the position of reviewing compensation packages. **Chairman Tull** said this is a way to ensure that the charitable purposes are being fulfilled. The other way the Commission uses is to increasingly insist that boards be independent, active and careful about how they relate to their paid employees. He said he would prefer not setting up a review process for what is an acceptable severance package. Bingo cannot operate primarily for the benefit of the employees.

**Director Miller** said this was one of the cases where the organization had a history of problems and there were questions about the legitimacy of their purpose. Some of the parties were removed, and the organization made some progress. New rules became effective this year relating to total amount of expenses based on a percentage and endowments, etc, as a direct result of groups like this one. What was not addressed was the issue of excessive wages, although the Commission has the ability to take action if it so chooses. **Mr. Bishop** said this occurred after the Commission had continued a formal review because of excessive wages for this person. The Board, during the continuance, increased the rate because this is payment for past services. They decided to pay for past services at a future point in time, and if that had been pro-actively applied to the period she worked, this organization would have been out of compliance even further.

**Chairman Tull** said this organization should be notified that they are out of compliance with the Commission's rules and the state statute on excessive compensation, that they cannot violate retroactively the payout requirements and they must stop. **Director Miller** said the new rules take care of this issue very well. He said that by bringing a group forward for a special review, the group is exempted from actions taken on the items discussed at the meeting so they have a chance to correct the problem. Any future violations would then be subject to a hearing.

**Commissioner Heavey** moved to notify this organization that payments of this type are improper and, if continued, would be the basis for revocation or suspension of their gambling license; **Commissioner Graham** seconded the motion. **Chairman Tull** said all the commissioners present at the meetings during that time period were deeply offended by the operations, attitudes and complete disregard of this organization. It was hurting the bona fide organizations in the area. This organization has attempted to reform itself and they need to complete the process. Vote taken, motion carried with three aye votes by the three commissioners present.

#### Director's compensation

**Chairman Tull** said the director of the Gambling Commission serves at the pleasure of the members of the Commission and is responsible for hiring and supervising the entire Commission staff. It is a position of substantial responsibility. He said Commissioner Graham assembled information regarding adjusting the compensation of the director and reviewed it with the commissioners, including Commissioner Mosbarger, in executive session.

**Commissioner Graham** moved to increase the director's salary by 9 percent. The last pay increase he received was 18 months ago, and it's time to take into consideration the many activities he is involved with that take him well beyond the 40-hour work week that is expected. **Commissioner Heavey** seconded the motion, and said Director Miller has not received a cost of living increase in over three years, and he would not be getting another cost of living increase for another year, which would at least equal nine percent. He said Director Miller is definitely entitled to a merit increase because he does an excellent job. He said Director Miller is one of the most responsive officials he's ever worked with, and that he recognizes that his role is in the development of policy and not in passing it. He commended Director Miller to the Legislature and the Governor to take controversy out of controversy.

**Sen. Prentice** said that, as a former labor representative and one who has negotiated contracts, she is impressed that the Commission really did have to make up for cost of living so that the raise itself is not as substantial as it might seem to some people. She said she has had the opportunity to interact as a member of this Commission attending meetings on a regular basis, and she is impressed with the scope and all the qualities described by Commissioner Heavey about Director Miller, especially in a time of great tension and turmoil within the state. She said he has done a wonderful job of keeping this group on the mark, and she appreciates the job he has done.

**Rep. Schmidt** said she is pleased that the Commission is putting in perspective the fact that this does compensate for the cost of living increase also. The future legislative session could raise cost of living as an issue. She said Director Miller is the right person at the right time for this job and he is widely appreciated and respected by members of the Legislature, as well as the public. He recently went to Kitsap County and the comments expressed after the meeting by both the Indian and non-Indian participants was very strong and positive, and even the media had good things to say about him, which was almost frightening. She said she believes he is a very capable person and the Commission is lucky to have him.

**Chairman Tull** said that Commissioner Mosbarger specifically commented that the recent Kitsap County meeting was extremely well-handled and well-received, and she wanted her appreciation of Director Miller's efforts to be recognized. He said he is pleased that Director Miller has worked as hard as he has and the Commission is pleased with the results. He said he has a high percentage of being right, he serves as current

president of the North American Gaming Regulators Association, has worked with the governments of several other states on the complex issue of Class III gaming and knows more than anyone about this issue. He has done so, keeping in mind the Commission's desire to try and balance as much as possible the responsibilities and interests on behalf of the public and the licensee community, and the federally-recognized interests of the tribes. At a meeting of the tribes and the Governor in June, he said he listened to a number of people speaking on behalf of many of the tribes who, in a friendly way, beat up on Director Miller. There is great respect for him, and many people may not be aware of the extremely high level of tension and stress that has accompanied this job. Across the country, no other state has achieved the level of involvement in Indian gambling regulation that the state of Washington has, and no other state has effectively negotiated limits on Indian gaming that this state has; all of which has occurred under Director Miller's watch and under his supervision.

Vote taken, motion carried with three aye votes. **Chairman Tull** said Director Miller has the further responsibility of making his salary increase fit within the budget that's been submitted. He asked the audience to let the Commission and staff know of any comments regarding the inclusion of Leavenworth on future Commission calendars. Meeting was adjourned.

**NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.**

Susan D. Green  
Executive Secretary